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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,013

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Jung-Hyun Kee

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EXAMINER

BAINBRIDGE, ANDREW PHILIP

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

06/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/581,013	Applicant(s) KEE, JUNG-HYUN	
	Examiner ANDREW P. BAINBRIDGE	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claim 1 is rejected under 35 U.S.C. 102(b)** as being anticipated by US 5,879,336 (Brinon).

3. Brinon in figures 1-8 discloses a push type dispensing device (see figure 1) with an outer casing 13 with a barrel shape with an opening on both ends (see figure 1) with a hollow cone shaped nozzle cap 12 with an orifice 2 at the center of the nozzle cap 12 with an inner casing 3 that is housed within the outer casing 13 which can move up and down a pre-determined distance 5, 15, 18 with a button 18-19 at the upper end of the inner casing 3 which when actuated 18-19, 21 moves the inner casing 3 and a dispenser 1 that is coupled to the inner casing 3, 14-15 with a pump stem 4, 9 that is in close contact with the orifice 2, the system designed to dispense controlled doses of product, with an elastic spring 5 that surrounds the pump stem 9 and a plunger 17 that moves in response to the vacuum formed by the dispensation of the inner casing's 3 contents 7.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3754

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claim 2 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Brinon in view of US 2,597,165 (F.J. Minturn).

7. Brinon has all of the elements of claim 2 except for a guide groove with a predetermined length provided on the interior of the outer casing to help control the movement of the inner casing. Minturn in figures 1-8 teaches a groove 18 on the interior of the outer sleeve of the container 15 that guides a pin 14 on the inner sleeve along two grooves 18-19 to control the relative movement of the sleeves with respect to each other. It would be obvious to one of ordinary skill in the art to adapt Minturn to Brinon because Minturn provides a way to better control the dosage dispensed from the Brinon container.

8. **Claim 3 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Brinon in view of US 2,363,47 (J.H. Schlesinger).

9. Brinon has all of the elements of claim 3 except for a stand with a support step with a support piece that extends upwardly from the stand to hold the container "face

Art Unit: 3754

down" during non-use. Schlesinger in figures 1-6 teaches a stand 36 with a support step (see figure 3) with an extension 47 to better support the "bottom" of the container while in non-use. It would be obvious to one of ordinary skill in the art to adapt Schlesinger to Brinon because Schlesinger provides a way to store the container during non-use which is convenient and sanitary.

10. **Claim 4 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Brinon in view of Minturn as applied in claim 2, and further in view of Schlesinger.

11. Brinon in view of Minturn as applied in claim 2 has all of the elements of claim 4 except for the use of a stand, and support step and a support piece that extends to better support the container of claim 2. As explained above in paragraph 9, Schlesinger has all of these missing elements and it would be obvious to one of ordinary skill in the art to adapt Schlesinger to the Brinon-Minturn device of claim 2 because it provides a convenient and sanitary storage position when not in use.

Response to Arguments

12. Applicant's arguments, see Applicant's arguments, filed April 8, 2009, with respect to the rejection(s) of claim(s) 1-4 under the various references have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of the above cited references.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW P. BAINBRIDGE whose telephone number is

Art Unit: 3754

(571)270-3767. The examiner can normally be reached on Monday to Thursday, 9:30 AM to 8:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. B./
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art
Unit 3754